

EXHIBIT 15

avenue Crosstab Report

parture Date: ◆Dec 29, 2011◆ to ◆Dec
31, 2011

Fare Class Codes: ◆ALL

From Airport: ◆ALL

To Airport: ◆ALL

Reservation Channels: ◆ALL

Travel Agents: ◆ALL

Flying Status: ◆ALL

Flights: ◆ALL

Flight Status: ◆◆ALL

Values are in Airline Report Amount

Values are in Airline Report Amount			PSGR	Count	AIR	APH	APS	BAG1	BAG2	BAGS	BPP	BSA	BSC	BSD	CGFE	CHNG	CLUB	CNV	CNXL	CONV	FBAG	FCLS	FDIF	FET	GOLF	HV50	
◆	PGD◆	5809	150	12,136.42	0.00	0.00	0.00	875.00	30.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,195.00	0.00	0.00	550.00	772.50	710.96	0.00	0.0	
	PBI◆	3801	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	
	PGD◆	5811	292	21,761.69	0.00	0.00	0.00	1,000.00	60.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	25.00	0.00	2,260.00	300.00	0.00	0.00	1,050.00	439.91	1,283.55	0.00	0.0
	6003	120	9,308.16	0.00	0.00	0.00	0.00	525.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	930.00	0.00	0.00	0.00	400.00	383.50	425.34	0.00	25.0
	SFB◆	5813	300	22,568.88	0.00	0.00	0.00	1,875.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,880.00	100.00	0.00	0.00	100.00	618.00	1,593.52	0.00	0.0
◆	6003	30	2,561.74	0.00	0.00	0.00	275.00	30.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	330.00	0.00	0.00	0.00	300.00	0.00	148.74	0.00	0.0
	MYR◆	5823	101	6,805.92	0.00	0.00	0.00	400.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	810.00	0.00	0.00	0.00	0.00	0.00	374.76	0.00	0.0
	LAL◆	7705	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0
	MYR◆	7705	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0
	LAL◆	7100	298	22,545.58	0.00	0.00	0.00	2,650.00	30.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	25.00	0.00	3,435.00	75.00	0.00	0.00	200.00	453.50	1,627.55	0.00	0.0
◆	7713	151	12,297.89	0.00	0.00	0.00	1,275.00	30.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00	0.00	2,115.00	0.00	0.00	0.00	0.00	0.00	113.60	0.00	0.0
	MLB◆	3005	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	270.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0
	MYR◆	5817	179	11,587.08	0.00	0.00	0.00	1,275.00	30.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,570.00	100.00	0.00	0.00	0.00	632.50	653.20	25.00	25.0
	NAS◆	4413	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	405.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0
	PBI◆	4409	300	24,526.24	0.00	0.00	0.00	2,775.00	30.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3,490.00	0.00	0.00	0.00	200.00	0.00	1,710.99	25.00	0.0
◆	PGD◆	5815	320	25,905.42	0.00	0.00	0.00	1,645.00	60.00	0.00	0.00	0.00	0.00	0.00	0.00	50.00	150.00	0.00	2,845.00	0.00	0.00	0.00	600.00	269.00	1,475.09	25.00	50.0
	5915	149	15,894.10	0.00	0.00	0.00	900.00	60.00	0.00	0.00	0.00	0.00	0.00	0.00	350.00	25.00	0.00	1,635.00	300.00	0.00	0.00	450.00	0.00	1,046.90	0.00	0.0	
	3005	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	
	SJU◆	4405	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,740.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0
	HGR◆	7704	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	55.28	0.00	0.0
◆	IAG◆	7712	115	8,461.10	0.00	0.00	0.00	725.00	150.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,455.00	600.00	45.00	0.00	350.00	0.00	588.32	25.00	0.0
	7700	276	19,927.15	0.00	0.00	0.00	2,525.00	30.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	0.00	0.00	3,165.00	200.00	0.00	0.00	200.00	180.00	1,579.84	75.00	75.0	
	MYR◆	7704	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13.82	0.00	0.0
	PBG◆	4400	136	9,943.96	0.00	0.00	0.00	1,100.00	0.00	0.00	0.00	0.00	0.00	0.00	200.00	0.00	0.00	1,530.00	500.00	0.00	0.00	0.00	324.00	738.52	0.00	50.0	
	7710	74	5,109.88	0.00	0.00	0.00	500.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	975.00	100.00	0.00	0.00	0.00	0.00	427.34	0.00	75.0	
◆	SJU◆	4401	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0
	SPI◆	7102	246	18,653.88	0.00	0.00	0.00	1,600.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00	0.00	0.00	3,240.00	300.00	0.00	0.00	550.00	268.99	1,557.49	0.00	25.0	
	IAG◆	3004	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	
	EWR◆	5852	99	6,368.45	0.00	0.00	0.00	800.00	30.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	825.00	0.00	0.00	0.00	0.00	5.00	420.11	0.00	25.0
	HGR◆	7704	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	
◆	IAG◆	5816	90	5,900.61	0.00	0.00	0.00	600.00	120.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,110.00	0.00	0.00	0.00	0.00	0.00	555.11	0.00	0.0
	5622	50	3,643.63	0.00	0.00	0.00	575.00	210.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	495.00	0.00	0.00	0.00	0.00	134.50	236.35	0.00	25.0
	LAL◆	7705	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0
	PBG◆	5622	109	7,498.01	0.00	0.00	0.00	625.00	60.00	0.00	0.00	0.00	0.00	0.00	50.00	0.00	0.00	1,260.00	0.00	0.00	0.00	0.00	0.00	0.00	521.50	0.00	0.0
	PIT◆	5818	99	7,055.96	0.00	0.00	0.00	925.00	30.00	0.00	0.00	0.00	0.00	0.00	100.00	0.00	0.00	1,115.00	0.00	0.00	0.00	0.00	114.50	554.19	0.00	0.0	
◆	IAG◆	4414	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	315.00	0.00	0.00	0.00	0.00	0.00	0.0
	ORH◆	4411	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	60.00	0.00	0.00	0.00	0.00	0.00	0.0
	NAS◆	4410	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	
	PBI◆	4407	149	11,763.82	0.00	0.00	0.00	1,025.00	0.00	0.00	0.00	0.00	0.00	0.00	50.00	50.00	0.00	1,350.00	100.00	0.00	0.00	100.00	49.50	629.13	0.00	0.0	
	3803	259	18,214.51	0.00	0.00	0.00	1,475.00	60.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,940.00	100.00	0.00	0.00	550.00	269.00	1,433.55	0.00	0.0	
◆	PGD◆	5803	3																								

EXHIBIT 16

IN RE: SOUTHERN SKY AIR & TOURS, LLC

LORI ROONEY
November 13, 2013

Ellen Grauer
COURT REPORTING
Co. LLC



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Original File 105574.TXT

Min-U-Script® with Word Index

1 ROONEY

2 MR. HAWORTH: Object, terminology,
3 no reference in the regs to an escrow bank.

4 Q. Are you able to answer that
5 question, or would you like me to restate it?

6 A. We're approved as a depository bank.

7 Q. And that's the terminology,
8 depository bank?

9 A. Yes. We are a depository bank.

10 Q. And I apologize if my terminology is
11 off in today's exam.

12 A. That's okay.

13 Q. Please feel free --

14 A. That's okay.

15 Q. I ask that you correct me so that
16 we're using the same language and I understand
17 what the right terms are.

18 So Valley National Bank is an
19 approved depository bank under part 380 of the
20 DOT regs?

21 A. Yes.

22 Q. How long has it been an approved
23 depository bank?

24 A. Since our department became --
25 started working for Valley, and I believe that

1 ROONEY

2 was in 2000.

3 Q. Do you know what the process was for
4 being approved as a depository bank?

5 A. No.

6 Q. Were you part of obtaining the
7 approval by the DOT to become a depository bank?

8 MR. HAWORTH: Object, no foundation.

9 A. We provide a depository agreement to
10 the DOT. I believe, as a depository bank, you
11 have to be able to offer FDIC insurance. I think
12 that was the -- and a copy of the agreement
13 naming us is sent to the DOT for every customer
14 we have.

15 Q. A copy of what agreement?

16 A. The depository agreement.

17 Q. Public charter depository agreement?

18 A. Public, yes, that's part of the
19 package.

20 Q. Do you understand that there is an
21 approval process otherwise to become a depository
22 bank?

23 A. I'm not aware.

24 Q. Do you know how many other banks are
25 approved depository banks?

1 ROONEY

2 Q. But that's distinct from a general
3 bank operating account it may have, correct?

4 A. Yes. It's a separate account, yes.

5 Q. And it's fair to say that under part
6 380, the charter operator can't simply write a
7 check from the depository account, correct?

8 A. Yes. It's not an operating account,
9 yes.

10 Q. And there are controls on access to
11 the depository account, correct?

12 A. Yes.

13 Q. Where do the controls come from?

14 A. It's written in the regulations, and
15 it's also written in our depository agreement.

16 Q. So the two sources of control over
17 the depository account come from part 380 of the
18 DOT regulations and the public charter depository
19 agreement?

20 A. Yes.

21 Q. Anywhere else?

22 A. No. I can't -- no.

23 Q. Have you reviewed the language of 14
24 Code of Federal Regulations part 380?

25 A. I've read them, yes.

1 ROONEY

2 would go from one to one to one.

3 For my purpose, Aviation Advantage
4 is like the air carrier.

5 Q. Is it fair to say that by using an
6 indirect air carrier in Exhibit 40, all it does
7 is add one extra level of entity between Direct
8 Air, the charter operator, and the ultimate air
9 carrier?

10 A. Yes.

11 Q. We were discussing the term
12 ministerial earlier this morning. Can you turn
13 to section 4.1 of Exhibit 40.

14 A. 4.1?

15 MS. MURPHY: Yes.

16 A. Okay.

17 Q. And that's the section of the Public
18 Charter Depository Agreement that uses that term
19 "ministerial," correct?

20 A. Yes.

21 Q. And that's where you get your
22 understanding of the role of Valley National Bank
23 as a depository bank being a clerical function?

24 A. Yes.

25 Q. How often do you review the Public

1 ROONEY

2 A. A depository account, we need an
3 executed depository agreement.

4 Q. Such as in the form of Exhibit 40
5 (indicating)?

6 A. Exactly, such as the form Exhibit
7 40. We need a certification of their taxpayer ID
8 number, which would be a W-9, or if it was a
9 foreign entity a W-8, a form of certificate of
10 incorporation, a corporate resolution listing who
11 are the authorized signers of a particular
12 account. And with that resolution we also
13 require a form of ID, identification, a copy of a
14 driver's license or a copy of a valid passport.

15 Q. Anything else?

16 A. That's pretty much it.

17 Q. What happens once Valley National
18 Bank has all of those documents, in terms of
19 actually setting up the account?

20 A. We then -- if all the documents are
21 in order, we will open up an account on the
22 bank's software, money keeping records.
23 Typically we open up a DDA account, DDA, demand
24 deposit account. That's the account where all
25 monies would be deposited. And then we also --

1 ROONEY

2 if it's agreed, we will open up a money market
3 account where monies that are on deposit in that
4 DDA account could periodically, whether it's
5 weekly, daily, be moved so they can earn a little
6 bit of interest on the deposited funds. DDA
7 accounts don't pay interest.

8 Q. Both of these accounts that you're
9 talking about, the DDA account and the money
10 market account, would those be depository
11 accounts under part 380?

12 A. Together, collectively, it's one
13 depository account. Yes, it's a depository, yes.

14 Q. So the same restrictions that apply
15 to how money is taken out of the DDA account
16 apply to how money is taken out of the money
17 market account; is that correct?

18 MR. HAWORTH: Object, vague and
19 ambiguous.

20 A. I don't quite understand. All the
21 monies going out -- the money market account is
22 strictly for earning interest. All monies that
23 are transacted are transacted, for the most part,
24 out of the DDA account. So --

25 Q. What causes the money to shift

1 ROONEY

2 between the DDA account and the money market
3 account?

4 A. We have to manually go into the
5 account and move monies that are in the DDA and
6 literally transfer it. So you would transfer --
7 you have money, a hundred dollars in the DDA
8 account, you transfer -- you just do a debit from
9 the DDA and a credit to the money market. The
10 totals of the money market and the DDA constitute
11 what's actually on deposit in the depository
12 account.

13 Q. And generally under part 380 there
14 are requirements or restrictions about how money
15 can be taken out of the depository account,
16 correct?

17 A. Yes.

18 Q. We talked about those earlier, about
19 the flight certifications.

20 A. Yes, yes.

21 Q. Those restrictions apply to all of
22 the money in both of those accounts, correct?

23 A. Collectively? Yes.

24 Q. Who directs the bank to transfer
25 money between the DDA and the money market

1 ROONEY

2 Q. Is it as simple as using a routing
3 number and account number to get money into the
4 account?

5 A. Yes, yes.

6 Q. With respect to Direct Air, were you
7 involved in the initial setup of their depository
8 account with Valley National Bank?

9 A. I would say yes.

10 Q. What did you do with respect to
11 setting up their account?

12 A. I don't know what I specifically
13 did. I know the initial depository agreement was
14 signed by Bob Halagarda, but we worked, you know,
15 together. I don't -- you know, usually I would
16 be the one signing them, you know, signing the
17 agreements. I mean, or Bob too, but for the most
18 part I did them. Specifically I don't know what
19 I personally did to set up this account.

20 Q. Do you recall anything with the
21 Direct Air account that was outside of the
22 general description you gave me for how accounts
23 would be set up?

24 A. No.

25 Q. So it's fair to say it was set up in

1 ROONEY

2 the routine manner for a depository account?

3 A. Yes.

4 MS. MURPHY: I will mark as Exhibit
5 43 a document entitled Commercial
6 Department Resolution of Directors
7 Regarding Bank Account and Authorized
8 Parties.

9 (VNB Exhibit 43, Commercial
10 Department Resolution of Directors
11 Regarding Bank Account and Authorized
12 Parties, marked for identification.)

13 Q. Let me hand that to you, give you an
14 opportunity to take a look at that document
15 (handing).

16 Do you recognize Exhibit 43?

17 A. Yes.

18 Q. What is it?

19 A. This is what we provide to our
20 customers when we're setting up an account for
21 the list of authorized signers on the account.

22 Q. What's the date of that document,
23 the execution?

24 A. June 30, 2006.

25 Q. Is it your understanding that that

1 ROONEY

2 and the same for Ms. Tull herself?

3 A. Yes.

4 Q. Are you aware whether Direct Air had
5 a DDA and a money market account for their
6 depository account with Valley National Bank?

7 A. I'm sorry.

8 Q. Are you aware whether Direct Air had
9 a DDA and a money market account for their
10 depository account with Valley National Bank?

11 A. Yes.

12 Q. And those two accounts operated in
13 the general manner that you've described
14 previously, correct?

15 A. Yes.

16 Q. Valley National Bank was not getting
17 direction from Direct Air about moving money
18 between its DDA and its money market account, was
19 it?

20 A. No.

21 Q. Any direction that Valley National
22 Bank received regarding the release of funds from
23 the depository account for Direct Air would just
24 be for one account; it would not specify a DDA or
25 a money market, correct?

1 ROONEY

2 MR. HAWORTH: Object, vague and
3 ambiguous.

4 A. Wait. Repeat that, please.

5 Q. When Direct Air was requesting the
6 release or transfer of money, it would simply ask
7 for it from Valley National Bank; it would not
8 specify between a DDA and money market account,
9 correct?

10 A. Yes, yes.

11 Q. What are the bank's policies and
12 procedures for acting as a depository account
13 under part 380?

14 A. I have a whole procedure manual that
15 you should have been -- I believe you were
16 provided with. Right?

17 MS. MURPHY: Do you want to go into
18 that at this point?

19 MR. AIETA: No. I have it, but I'd
20 rather not go into it at this point.

21 MS. MURPHY: Okay.

22 Q. Those policies and procedures are a
23 written manual?

24 A. Yes.

25 Q. Are there any unwritten policies and

1 ROONEY

2 Q. How do you go about identifying the
3 money?

4 A. We get instructions from the charter
5 operator.

6 Q. Are the processes that you're
7 describing for money coming into the account
8 largely the same for ACH or checks or other forms
9 of electronic transfers, like a wire into the
10 account?

11 A. As far as what?

12 Q. Well, you're talking about a process
13 by which the money is posted to the account and
14 an identifier is given to it. That's what you've
15 explained so far. Is that what happens when you
16 receive cash to a depository account?

17 A. First of all, we don't receive cash.
18 My customers are all over the country. They're
19 not going to be putting cash in an envelope and
20 sending it. So cash, it doesn't apply.

21 Q. What about checks; do you take
22 checks through the depository accounts?

23 A. Yes.

24 Q. What's the process if you receive a
25 check for a depository account under part 380?

1 ROONEY

2 Q. And will it stay with that same
3 designation, or does that designation or name of
4 the deposit change at all?

5 A. That will stay in the account
6 until -- in that same description until we are
7 given instructions from the charter operator to
8 change it.

9 Q. Is that a regular part of the
10 depository account practice, that the name would
11 be changed?

12 A. It comes in, the deposit comes in
13 undefined. Once it's defined -- any monies that
14 are on deposit in the account, once it is defined
15 what those monies are, then yes, the name would
16 be changed.

17 Q. When you say "defined," what do you
18 mean by "defined"?

19 A. Monies coming into an account for
20 the most part are passenger monies. If there's
21 no accompanying detail, it's unallocated funds.
22 We have no idea what that money is. So I don't
23 get confused, we use different numbering system.
24 U is unallocated. We have monies that came into
25 the account, there's no corresponding details on

1 ROONEY

2 that money. The customer receives a report
3 showing that that money comes in.

4 At some point they know, it's their
5 program, they know who they're getting money
6 from, whether it be, you know, from a merchant,
7 whether it's coming in, if it was an airline,
8 from a charter operator, they know what the money
9 is.

10 All our customers know that any
11 monies in a, quote, U unallocated account are not
12 going to be released to them until there's a
13 corresponding, let's say, description, could be a
14 flight account. And then that U account would no
15 longer exist. We would debit out that U account,
16 the U accounts, and designate flight accounts.

17 Q. Are you saying that money should not
18 be released from a U account?

19 A. No. Monies will not -- well, U
20 accounts are unallocated. Until you know what
21 any of these unallocated monies represent, they
22 are not released.

23 Q. And by "released," we're talking
24 released outside the bank to the charter
25 operator?

1 ROONEY

2 A. Correct.

3 Q. Let me back up here.

4 If money comes in from American
5 Express without any underlying or supporting
6 information about what it's for, it would be put
7 into a unallocated account?

8 A. Yes.

9 Q. It would have a U and then a number
10 associated with that line item, correct?

11 A. Yes.

12 Q. The bank would take whatever
13 information it had, such as the date and the
14 sender, and create a description for it that's 17
15 characters or less, correct?

16 A. Yes.

17 Q. In its present state as a U account,
18 that money should never be released directly to a
19 charter operator for its use, correct?

20 MR. HAWORTH: Object, vague and
21 ambiguous.

22 A. I mean, it's not very clear what
23 you're asking me. Monies that we -- that are
24 unallocated, that we have not received any
25 instructions what any of these monies

1 ROONEY

2 represent --

3 Q. Which you are saying are designated
4 by this U account?

5 A. By U accounts, and it's numerous.
6 You're getting U accounts -- you're getting
7 monies in every day.

8 They are not released to the charter
9 operator until we get information of what those
10 unallocated monies represent.

11 Q. And if the bank receives information
12 about what the unallocated money represents,
13 should the description be changed, or is there a
14 change to the U account?

15 A. See, I'm not -- I'm not -- U account
16 then goes away.

17 Q. Okay. So it does change --

18 A. Now you have a description. I mean,
19 I don't know what you're asking.

20 Q. I apologize. I come from this from
21 a legal background, and I know you have the
22 banking experience, so your explanation of this
23 is helpful.

24 It is designated as a U account, and
25 then at some point you're saying that the

1 ROONEY

2 were talking about the release mechanism,
3 correct, to get money out of the account?

4 A. Yes, yes.

5 Q. I want to focus on what happens when
6 the money comes into the account and how it's
7 treated at Valley before a release request is
8 made.

9 So it's your understanding that
10 Valley National Bank needs to account for the
11 money coming in by charter group, which you
12 understand means flight, correct?

13 A. Yes.

14 Q. Where did you come up with that
15 understanding?

16 A. It's been since I've been doing
17 this, since 1992.

18 Q. Do you recall if you got that
19 understanding from reading the regulations?

20 A. Probably from -- that was our
21 interpretation of the regulations, whatever bank
22 that I was with, it just carried over.

23 Q. Unallocated funds are not in an
24 account by flight, correct, because they're
25 unallocated?

1 ROONEY

2 releasing?

3 A. Yes.

4 Q. Does the bank retain these notice of
5 release, the flight certification and the banking
6 instructions for releases?

7 MR. HAWORTH: Object, vague and
8 ambiguous.

9 A. It's a practice to maintain these
10 records. It's -- some of the records are not
11 mandatory. I believe the actual wire, it's
12 mandatory that we have to have copies of the
13 wire, or the wire room has copies of the wire.
14 As a practice, yes. Is it mandatory? I would
15 say no.

16 Q. Are K accounts and U accounts an
17 internal bank function; they're not physically
18 separate accounts with separate documentation?

19 A. No, it's internal.

20 MS. MURPHY: This might be a good
21 time to break for lunch now that we've
22 gotten through some of the generic
23 information before we start talking about
24 Direct Air's operations. Does that sound
25 like a good idea?

1 ROONEY

2 Q. What is your understanding of the
3 authority for membership fees to not remain in
4 the depository account?

5 MR. HAWORTH: Object, vague and
6 ambiguous.

7 A. The membership fees had nothing to
8 do with part 380.

9 Q. Is there anything in part 380 that
10 defines its scope, so we could see membership
11 fees aren't a part of that section?

12 A. I believe it's not mentioned at all,
13 that part 380 is all pertaining to charter
14 flights.

15 Q. Did Direct Air ever provide you
16 guidance with respect to whether membership fees
17 need to be retained in the depository account?

18 A. I don't believe so. I don't know.

19 MS. MURPHY: We might have some more
20 questions on the membership fee section in
21 a little bit, but what I'd like to go
22 through now is some of the documents
23 specific to Direct Air.

24 I am going to mark as the next
25 exhibit, 46, documents that have Valley

1 ROONEY

2 A. Yeah, yes. It has nothing -- it's
3 not related to that fourth paragraph.

4 Q. The third paragraph says, "You
5 currently have \$1,083,412.32 on deposit
6 representing funds received from your merchant
7 bank." Those would be unallocated funds at that
8 time?

9 A. Looking at this, yes, I would say
10 yes.

11 Q. Your e-mail continues, "We need the
12 flight allocation for this balance so we can
13 maintain the required flight-by-flight accounting
14 for all sales."

15 A. Okay.

16 Q. That refers to the flight-by-flight
17 accounting that Valley National Bank is required
18 to do under part 380 and your charter escrow
19 agreement, correct?

20 MR. HAWORTH: Object, no foundation,
21 calls for legal conclusion.

22 A. We would need information from
23 Direct Air in order to do a flight accounting in
24 their depository account, yes.

25 Q. And when you say "required

1 ROONEY

2 flight-by-flight accounting" in your e-mail,
3 you're referring to the requirements under part
4 380 and your charter agreement with Direct Air,
5 correct?

6 A. Right, our interpretation of it,
7 that the charter group was a charter flight.

8 Q. At this point, Wednesday, February
9 14, 2007, or at the time of these e-mails, Direct
10 Air had not started flying yet. Were you aware
11 of that?

12 A. Based on this, I would say yes.

13 Q. Did Direct Air ever provide you the
14 flight allocation for this \$1.83 million?

15 A. I don't believe they did.

16 Q. If you did not have the flight
17 allocation, could Direct Air access this money
18 and have it released to them?

19 A. No.

20 MS. MURPHY: I am going to mark the
21 next two exhibits in a row so it will be 48
22 and 49.

23 (VNB Exhibit 48, E-mail dated 3/5/07
24 with attachment, marked for
25 identification.)

1 ROONEY

2 We're reviewing the file. I probably, you know,
3 told them, hey, we have all this money, there's
4 no information. Most importantly, I need to know
5 what the money that we have on deposit, what are
6 the flights, what are the breakdowns. Back in
7 2007 I requested that information.

8 This looks like a part of just --
9 there's no financial, you know, detail, just
10 actual passenger portion of that.

11 Q. Would the information in Exhibit 48
12 have been sufficient for Valley National Bank to
13 allocate the money in the depository account by
14 flight?

15 A. No.

16 Q. Do you recall any follow-up
17 conversation with Judy Tull when you received
18 this document?

19 A. Again, based on recollect --

20 MR. HAWORTH: Are you speculating?

21 Don't speculate.

22 A. We want a total amount of money
23 collected for a particular flight. Back then I
24 believe early in 2007 they provided us with a --
25 I don't remember this particular report. This

1 ROONEY

2 doesn't really have anything that I would need.

3 I remember a report that I believe had passenger
4 detail, but it didn't give us the summary totals
5 for the amount of money for a particular flight.
6 It wasn't something they could -- their software
7 could provide us.

8 So passenger list, you only need
9 passenger lists in order to assist in a refund,
10 and I believe they sent us a report that had
11 passengers, and it was -- it just didn't -- it
12 didn't serve our purpose for doing the flight --

13 Q. Exhibit 48 didn't serve your purpose
14 to allocate money, correct?

15 A. Hum?

16 Q. Exhibit 48 didn't serve your purpose
17 to be able to allocate money in the depository
18 account, correct?

19 A. Correct.

20 Q. Do you recall having any
21 conversations with Direct Air saying this report
22 isn't sufficient for our needs?

23 A. This particular report? No.

24 Q. Do you recall whether you received
25 reports like this on more than this one occasion;

1 ROONEY

2 (indicating).

3 A. Okay.

4 Q. And the information appears to show
5 a flight number, a to and from airport, date of
6 departure and additional information, correct?

7 A. Yes.

8 Q. It also has a column which appears
9 to say fare, but has what appears to be money in
10 it, in the last column on each of those pages on
11 the right, correct?

12 A. Correct.

13 Q. Given the information on the
14 attachment to Exhibit 49, would this be
15 sufficient information for Valley National Bank
16 to allocate by flight the money in its depository
17 account?

18 MR. HAWORTH: Object, no foundation
19 for that.

20 A. No.

21 Q. What's missing from this report that
22 you would need to allocate money from the
23 depository account?

24 A. A total that was collected for each
25 individual flight.

1 ROONEY

2 Q. This exhibit or this report is
3 insufficient because it gives you all of the
4 individual transactions as opposed to a
5 flight-by-flight summary, correct?

6 A. Yes.

7 Q. Do you recall having a conversations
8 with Direct Air advising them that this report
9 was insufficient to allow you to allocate the
10 money in the depository account?

11 A. I recall a report, I don't know if
12 it was this one, that they provided us --

13 Q. I'm sorry. Before we get on to
14 that, do you recall having any conversations
15 about this specific report (indicating)?

16 A. I don't know if it was this report
17 or not is what I'm saying. I don't remember this
18 report (indicating).

19 Q. Okay. What conversations do you
20 recall?

21 A. We wanted a -- we wanted the ability
22 to post monies to flight accounts. Everything is
23 unallocated. They provided me with a report, I
24 don't know if it was this specific report, that
25 we could not use. Number one, it was two reams

1 ROONEY

2 you or anyone else at Valley National Bank ever
3 made that call?

4 A. I don't recall the conversation.
5 You know, I don't know. I don't recall. I
6 really don't.

7 Q. Is it conceivable, and I'm not
8 asking practical, but I'm asking conceivable,
9 that if somebody totaled up by flight all the
10 information in Exhibit 49, you would have the
11 information that Valley National Bank needed to
12 allocate the money by flight?

13 MR. HAWORTH: Object, calls for
14 speculation, argumentative.

15 A. It's conceivable, yes.

16 Q. But it's not practical?

17 A. It's not practical, no.

18 Q. Do you recall Direct Air ever
19 providing a report that was sufficient for Valley
20 National Bank's needs to allocate the depository
21 account flight by flight?

22 A. Yes.

23 Q. What was that?

24 A. It was a summary report and -- it
25 was a summary. They provided us like a

1 ROONEY

2 itself from Radixx, correct?

3 MR. HAWORTH: I will object to form,
4 no foundation, mischaracterizes the
5 testimony.

6 A. Summary report served our purpose,
7 what we needed to allocate funds. If we needed a
8 more detailed report, which we didn't, we could
9 get that information from Radixx.

10 Q. Did Valley National Bank ever
11 contact Radixx to get additional information
12 about the Direct Air flights or reservations?

13 A. No.

14 Q. Not at any point in time?

15 A. No.

16 MS. MURPHY: Why don't I mark as
17 Exhibit 50 an e-mail dated August 9, 2010
18 from Judy Tull to Lori Rooney.

19 (VNB Exhibit 50, Document
20 Bates-stamped VNB 115, marked for
21 identification.)

22 Q. I am handing you what we just marked
23 as Exhibit 50, and I am also handing you what we
24 previously marked as Exhibit 3 (handing).
25 Exhibit 3 has Valley National Bates stamp 14 on

1 ROONEY

2 Are you comfortable making that
3 assumption based upon what I've represented?

4 MR. HAWORTH: Object to form.

5 A. I don't know. You're telling me
6 that's a fact.

7 Q. Okay. So I just ask that your
8 questions going forward take that as an
9 assumption, and it's noted on the record that it
10 is an assumption counsel is making, but for the
11 purposes of our discussion I would like you to
12 assume that any payments from credit card banks
13 have been processed within two to three days.

14 A. Okay.

15 Q. And I'd like to revisit the example
16 we had just discussed, again of the passenger
17 flying on what looks like Myrtle Beach direct
18 05/28/09, a flight, Myrtle to PIT to MYR to ORH
19 to MYR on 5/28/09.

20 If the passenger on that flight had
21 purchased the flight on January 1st of 2009,
22 approximately six months in advance of that
23 night, is it your understanding, based on how
24 Direct Air handled its flight allocation, that
25 those funds would be unallocated until

1 ROONEY

2 approximately the flight date?

3 A. Yes.

4 Q. Did that comport with part 380 and
5 the requirements that funds be allocated flight
6 by flight?

7 A. Nowhere does it say that -- the
8 timing, as when the monies have to be allocated.

9 Q. What is your understanding of what
10 that timing should be, if it's not expressed in
11 part 380?

12 MR. HAWORTH: Object, no foundation,
13 speculative.

14 A. I don't know. The timing should --
15 charter operator knows if it's unallocated, no
16 funds are going to be released. There is no
17 timing. There's no set timing.

18 Q. So it's your understanding that
19 Valley National Bank as a depository bank under
20 part 380 had no timing restrictions for when
21 funds had to be allocated?

22 A. No.

23 Q. And it is your understanding that
24 it's permissible under part 380 that funds could
25 remain unallocated for as long as the charter

1 ROONEY

2 operator allowed them to be unallocated?

3 A. I don't think it's addressed in part
4 380.

5 Q. But the issue had to come up at some
6 time, because Direct Air wasn't giving you
7 information; there was a lot of unallocated money
8 for Direct Air, correct?

9 MR. HAWORTH: Object, form,
10 argumentative.

11 A. There were monies on deposit that
12 were for unallocated funds, yes.

13 Q. Was a lot, percentage-wise, of
14 Direct Air's money unallocated?

15 A. Yeah.

16 MR. HAWORTH: Object, argumentative.

17 THE WITNESS: Can I answer?

18 Q. I'm sorry. I thought you did answer
19 yes.

20 A. Yes, yes.

21 Q. And it's Valley National Bank's
22 understanding that it was permissible under the
23 regulations, whether expressed or implied, that
24 those funds could remain unallocated for as long
25 as the charter operator allowed them to be?

1 ROONEY

2 MR. HAWORTH: Object, argumentative,
3 asked and answered.

4 A. There's no timing. It's not --
5 there's nothing in the regs that tells you when
6 the allocation of that flight by charter group or
7 flight, as we say, has to be done.

8 Q. I understand, but what I've asked
9 you is a yes-or-no answer question, and it's
10 really focused on whether you believe it's
11 permissible. And if your answer is that you
12 didn't think the regs addressed it, there still
13 should be an answer yes or no whether you think
14 it was permissible. So I can --

15 A. I would say yes.

16 Q. Yes, it is permissible for the funds
17 to remain unallocated as long as you don't have
18 the information?

19 A. Yes.

20 Q. I'm going to show you two additional
21 sets of exhibits. One is Exhibit 22 and one is
22 Exhibit 23. 22 is chronologically first. Both
23 sets of documents say "Valley National Bank
24 Global Escrow Depository Services" on the top,
25 and below that "Daily Financial Report."

1 ROONEY

2 speculative, argumentative.

3 A. When money came in per -- no, it
4 wasn't supplied per deposit. So when the money
5 came in, you get an ACH deposit, they did not
6 provide me with instructions at the time of the
7 deposit. They weren't able to.

8 MR. AIETA: Is that something
9 (indicating)?

10 MS. MURPHY: For the record, could
11 you state the Bates number.

12 THE WITNESS: That was payment to an
13 air carrier, instructions for a payment to
14 an air carrier.

15 MR. AIETA: And that document is VNB
16 05299.

17 Q. Let me see if I can move on a little
18 bit from here and maybe get this, maybe
19 understand it a little better by asking questions
20 a little further down the line.

21 A. Okay.

22 Q. Before we go on, the seventh page of
23 Exhibit 22 is a continuation of the same day's
24 daily report, March 22, 2007.

25 A. Okay.

1 ROONEY

2 document?

3 A. Yes.

4 Q. And this is a document, the one
5 dated June 4, 2009, was faxed to your attention,
6 correct?

7 A. I think they're all -- my name was
8 on all of them, yes.

9 Q. And is it your understanding that
10 this is the form by which Direct Air would
11 release money to itself for flights that have
12 flown?

13 A. Yes.

14 Q. In conjunction with this, I think it
15 was your earlier testimony, Valley National Bank
16 would also require a certification of the air
17 carrier who completed the flights listed within
18 this release; is that correct?

19 A. Yes.

20 Q. And once you had those two pieces of
21 paper, Valley National Bank would then follow the
22 instructions to wire the requested money as
23 indicated on the release, correct?

24 A. Yes.

25 Q. And when Valley National Bank

1 ROONEY

2 They're telling us this is the
3 amount of money that they collected per flight
4 from the passengers. This is a total. So the
5 total amount for these groups of flights,
6 starting with May 27th flights through June 2nd,
7 was \$419,551. This is the total. It agrees the
8 total revenue collected, revenue being the
9 passenger funds collected for these groups of
10 flights, was 419,000.

11 Q. So the first thing that somebody
12 would do when looking at these reports is make
13 sure that the numbers from the release request
14 page match the report?

15 A. I'm looking at this. It looks like
16 there's a typo somewhere. Yeah, 515 or 551.

17 But yes, they would match, to see if
18 it matched.

19 Q. And on this specific example, June
20 4, 2009, you're telling me that the total revenue
21 collected does not, in fact, match.

22 A. Right. There's a reversal of a
23 number.

24 MR. AIETA: What is this other
25 document (indicating)? That's a page out

1 ROONEY

2 of the same exhibit?

3 MS. MURPHY: Yes. It's the pages
4 immediately following it.

5 A. For the most part, this report
6 matches with the total revenue collected as
7 reported here (indicating).

8 Q. Okay. That's how it would
9 typically --

10 A. That's how it would come.

11 Q. And that is a check that someone at
12 Valley National Bank would do when it received
13 this release request?

14 A. Yes.

15 Q. Once it checks the revenue line to
16 make sure it matches the accompanying report,
17 what's the next step?

18 A. They verify that yes, we made
19 payments to the various air carriers, okay, which
20 we make the payments. The balance from the total
21 amount collected is due Direct Air.

22 Q. And does somebody check the numbers
23 again to make sure that the math was done
24 correctly? Does someone at Valley National Bank
25 check the numbers to make sure the math was done

1 ROONEY

2 correctly?

3 A. On our end, that we're posting the
4 debits and credits, yes, yes, there is a check.
5 We usually provide -- we usually have a report --
6 excuse me, a tape of any kind. Whenever we're
7 actually doing the debits and the credits to the
8 account, in addition to that, in either the daily
9 proof your charter balance would not -- if the
10 math was incorrect, the charter balance wouldn't
11 agree with the money on Miser.

12 Q. So someone at Valley National Bank
13 should have picked up the fact that the revenue
14 number on the release request page and the total
15 revenue from the report did not match exactly?

16 A. Yes, it should have been.

17 Q. So there's an administrative or
18 clerical task of calculating the numbers to make
19 sure the math is done right, and then is there
20 any other checks that are done before the money
21 is paid out?

22 A. Again, that we have the certificates
23 of completion. That's basically it.

24 Q. You testified earlier that Valley
25 National Bank also uses the charter escrow detail

1 ROONEY

2 report to allocate the money that is unallocated
3 in the account to a K account so it can pay it
4 out; is that correct?

5 A. Repeat that. You just lost me for a
6 minute.

7 Q. This charter escrow detail report.

8 A. That's this (indicating)?

9 Q. Yes.

10 Was it your testimony that Valley
11 National Bank uses the information on this report
12 to allocate funds to the K accounts for flights
13 listed on here so that it can then in turn pay
14 the money requested from the K accounts?

15 A. Yes.

16 Q. What information or verification
17 does Valley National Bank get to know that the
18 money that's already in a U account is, in fact,
19 for these flights?

20 A. I'm not following you.

21 Q. So the only way that Valley National
22 Bank can know that, for example, I'm going to use
23 this top line where there's information on the
24 report, that the total for flight 6605, LCK to
25 MYR, the only way it can know that there should

1 ROONEY

2 be \$268 in a K account is because of this report,
3 correct?

4 A. Yes.

5 Q. You understand that at some point
6 there was a shortfall in the Direct Air
7 depository account at Valley National Bank,
8 correct?

9 A. Yes, I understand, yes.

10 Q. When was the first time you learned
11 about the shortfall?

12 A. Right when they shut down.

13 Q. I am showing you what's been
14 previously marked as Exhibit 13 (handing).

15 Have you ever seen that, the second
16 page of Exhibit 13 before?

17 A. What's the second badge?

18 Q. That is the second page that I put
19 in front of you. It's the spreadsheet. It has a
20 heading on top of "2011 to 2012 escrow revenue as
21 of 9/21/2011."

22 Have you ever seen that page before?

23 A. No, I don't believe so.

24 Q. Do you understand what the shortfall
25 means? When we say that there's a shortfall in

1 ROONEY

2 A. Because we only released the funds
3 upon direction from Direct Air. They're telling
4 us they sold this amount of monies per a
5 particular flight, they're telling us to release
6 monies to, say, payment to an air carrier. We
7 follow the instructions. Now, if they overstated
8 the amounts, we would have no way of knowing.

9 Q. I'm happy to let you look at the
10 exhibits where we have daily financial reports if
11 you'd like to, but isn't it fair to say that
12 there were a lot of unallocated money that Direct
13 Air had in its depository accounts over the
14 course of its depository accounts with Valley
15 National Bank?

16 MR. HAWORTH: Object, argumentative.

17 A. That doesn't mean anything to me.

18 Q. So are you saying that there was not
19 a lot of money unallocated in their accounts?

20 MR. HAWORTH: Same objection.

21 A. The money on deposit for the most
22 part was all in unallocated funds, yes.

23 MS. MURPHY: I think now might be a
24 good time for a quick five-minute break.

25 THE WITNESS: Sure.